

AMENDED IN ASSEMBLY JUNE 27, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

SENATE BILL

No. 693

Introduced by Senator Hueso

(Principal coauthor: Assembly Member Ridley-Thomas)

February 27, 2015

An act to amend Sections 17250.25 and 17407.5 of the Education Code, *to amend Section 25536.7 of the Health and Safety Code*, and to amend Sections 10191, 20119.1, 20119.3, ~~and 20155.4~~ 20155.4, and 22164 of, to repeal Section 20155.2 of, and to add Chapter 2.9 (commencing with Section 2600) to Part 1 of Division 2 of, the Public Contract Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 693, as amended, Hueso. Public contracts: skilled and trained workforce.

Existing law establishes specific instances where a public entity is required to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.

This bill would establish provisions to be generally applicable when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project. The bill would also authorize a public entity to require that a bidder, contractor, or other entity use a skilled and trained workforce to complete a contract or project.

Existing law relating to school facilities provides for the lease of property and prohibits the governing board of a school district from

entering into specific lease agreements for the construction of buildings for the use of the school district with any entity unless the entity provides to the governing board an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

Existing law relating to school facilities, operative July 1, 2016, and until January 1, 2025, also authorizes a school district, with the approval of the governing board of the school district, to procure design-build contracts for certain public works projects, as provided, and prohibits a design-build entity from being prequalified or shortlisted unless the entity provides a similar enforceable commitment to the school district with respect to the use of a skilled and trained workforce.

Existing law relating to the Department of General Services and the Department of Corrections and Rehabilitation authorizes the Director of General Services and the Secretary of the Department of Corrections and Rehabilitation to procure design-build contracts for certain public works projects, as provided, and prohibits a design-build entity from being prequalified or shortlisted unless the entity provides a similar enforceable commitment to the departments with respect to the use of a skilled and trained workforce.

Existing law relating to local agencies authorizes a local agency to procure design-build contracts for certain public works projects, as provided, and prohibits a design-build entity from being prequalified or shortlisted unless the entity provides a similar enforceable commitment to a local agency with respect to the use of a skilled and trained workforce.

Existing law, until January 1, 2021, establishes a pilot program to authorize the Los Angeles Unified School District to use a best value procurement method for bid evaluation and selection for certain public projects (LAUSD pilot program). The LAUSD pilot program precludes the prequalification or shortlisting of a best value entity unless the entity provides a similar enforceable commitment to the governing board of the district with respect to the use of a skilled and trained workforce.

Existing law establishes a pilot program to allow the Counties of Alameda, Los Angeles, Riverside, San Bernardino, San Diego, Solano, and Yuba to select a bidder on the basis of best value, as defined, for specific construction projects (pilot program for counties). The pilot program for counties precludes the prequalification or shortlisting of a best value contractor unless the contractor provides a similar enforceable

commitment to the county with respect to the use of a skilled and trained workforce.

This bill would revise those provisions specifically applicable to school facilities, *the Department of General Services, the Department of Corrections and Rehabilitation, and local agency design-build projects*, the LAUSD pilot program, and the pilot program for counties to require, instead, an enforceable commitment for the use of a skilled and trained workforce in accordance with the above-described generally applicable provisions for the use of a skilled and trained workforce, unless there is a prescribed project labor agreement.

The bill, except as specified, would not apply to contracts advertised for bid or awarded before January 1, ~~2016~~ 2017.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17250.25 of the Education Code, as added
2 by Section 2 of Chapter 752 of the Statutes of 2015, is amended
3 to read:
4 17250.25. The procurement process for design-build projects
5 shall progress as follows:
6 (a) (1) The school district shall prepare a set of documents
7 setting forth the scope and estimated price of the project. The
8 documents may include, but are not limited to, the size, type, and
9 desired design character of the project, performance specifications
10 covering the quality of materials, equipment, workmanship,
11 preliminary plans or building layouts, or any other information
12 deemed necessary to describe adequately the school district's
13 needs. The performance specifications and any plans shall be
14 prepared by a design professional who is duly licensed and
15 registered in California.

(2) The documents shall not include a design-build-operate contract for a project. The documents, however, may include operations during a training or transition period, but shall not include long-term operations for a project.

(b) The school district shall prepare and issue a request for qualifications in order to prequalify, or develop a short-list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:

(1) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the school district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the school district to inform interested parties of the contracting opportunity.

(2) Significant factors that the school district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other nonprice-related factors.

(3) A standard template request for statements of qualifications prepared by the school district. In preparing the standard template, the school district may consult with the construction industry, the building trades and surety industry, and other school districts interested in using the authorization provided by this chapter. The template shall require the following information:

(A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the shareholders, partners, or members known at the time of statement of qualification submission who will perform work on the project.

(B) Evidence that the members of the design-build team have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that the proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

(C) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information

1 on the revocation or suspension of any license, credential, or
2 registration.

3 (D) Evidence that establishes that the design-build entity has
4 the capacity to obtain all required payment and performance
5 bonding, liability insurance, and errors and omissions insurance.

6 (E) Information concerning workers' compensation experience
7 history and a worker safety program.

8 (F) If the proposed design-build entity is a corporation, limited
9 liability company, partnership, joint venture, or other legal entity,
10 a copy of the organizational documents or agreement committing
11 to form the organization.

12 (G) An acceptable safety record. A proposer's safety record
13 shall be deemed acceptable if its experience modification rate for
14 the most recent three-year period is an average of 1.00 or less, and
15 its average total recordable injury or illness rate and average lost
16 work rate for the most recent three-year period does not exceed
17 the applicable statistical standards for its business category, or if
18 the proposer is a party to an alternative dispute resolution system,
19 as provided for in Section 3201.5 of the Labor Code.

20 (4) (A) The information required under this subdivision shall
21 be certified under penalty of perjury by the design-build entity and
22 its general partners or joint venture members.

23 (B) Information required under this subdivision that is not
24 otherwise a public record under the California Public Records Act
25 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
26 Title 1 of the Government Code) shall not be open to public
27 inspection.

28 (c) (1) A design-build entity shall not be prequalified or
29 shortlisted unless the entity provides an enforceable commitment
30 to the school district that the entity and its subcontractors at every
31 tier will use a skilled and trained workforce to perform all work
32 on the project or contract that falls within an apprenticeable
33 occupation in the building and construction trades, in accordance
34 with Chapter 2.9 (commencing with Section 2600) of Part 1 of
35 Division 2 of the Public Contract Code.

36 (2) This subdivision shall not apply if ~~either~~ *any of the following*
37 *requirements are met:*

38 (A) The school district has entered into a project labor agreement
39 that will bind all contractors and subcontractors performing work

1 on the project or contract *to use a skilled and trained workforce*,
2 and the entity agrees to be bound by that project labor agreement.

3 *(B) The project or contract is being performed under the*
4 *extension or renewal of a project labor agreement that was entered*
5 *into by the school district prior to January 1, 2017.*

6 ~~(B)~~

7 *(C) The entity has entered into a project labor agreement that*
8 *will bind the entity and all its subcontractors at every tier*
9 *performing the project or*~~contract~~ *contract to use a skilled and*
10 *trained workforce.*

11 (3) For purposes of this subdivision, “project labor agreement”
12 has the same meaning as in paragraph (1) of subdivision (b) of
13 Section 2500 of the Public Contract Code.

14 (d) Based on the documents prepared as described in subdivision
15 (a), the school district shall prepare a request for proposals that
16 invites prequalified or short-listed entities to submit competitive
17 sealed proposals in the manner prescribed by the school district.
18 The request for proposals shall include, but need not be limited
19 to, the following elements:

20 (1) Identification of the basic scope and needs of the project or
21 contract, the estimated cost of the project, the methodology that
22 will be used by the school district to evaluate proposals, whether
23 the contract will be awarded on the basis of low bid or best value,
24 and any other information deemed necessary by the school district
25 to inform interested parties of the contracting opportunity.

26 (2) Significant factors that the school district reasonably expects
27 to consider in evaluating proposals, including, but not limited to,
28 cost or price and all nonprice-related factors.

29 (3) The relative importance or the weight assigned to each of
30 the factors identified in the request for proposals.

31 (4) Where a best value selection method is used, the school
32 district may reserve the right to request proposal revisions and
33 hold discussions and negotiations with responsive proposers, in
34 which case the school district shall so specify in the request for
35 proposals and shall publish separately or incorporate into the
36 request for proposals applicable procedures to be observed by the
37 school district to ensure that any discussions or negotiations are
38 conducted in good faith.

39 (e) For those projects utilizing low bid as the final selection
40 method, the competitive bidding process shall result in lump-sum

1 bids by the prequalified or short-listed design-build entities, and
2 awards shall be made to the design-build entity that is the lowest
3 responsible bidder.

4 (f) For those projects utilizing best value as a selection method,
5 the design-build competition shall progress as follows:

6 (1) Competitive proposals shall be evaluated by using only the
7 criteria and selection procedures specifically identified in the
8 request for proposals. The following minimum factors, however,
9 shall be weighted as deemed appropriate by the school district:

10 (A) Price, unless a stipulated sum is specified.

11 (B) Technical design and construction expertise.

12 (C) Life-cycle costs over 15 or more years.

13 (2) Pursuant to subdivision (d), the school district may hold
14 discussions or negotiations with responsive proposers using the
15 process articulated in the school district's request for proposals.

16 (3) When the evaluation is complete, the responsive proposers
17 shall be ranked based on a determination of value provided,
18 provided that no more than three proposers are required to be
19 ranked.

20 (4) The award of the contract shall be made to the responsible
21 design-build entity whose proposal is determined by the school
22 district to have offered the best value to the public.

23 (5) Notwithstanding any other provision of law, upon issuance
24 of a contract award, the school district shall publicly announce its
25 award, identifying the design-build entity to which the award is
26 made, along with a statement regarding the basis of the award.

27 (6) The statement regarding the school district's contract award,
28 described in paragraph (5), and the contract file shall provide
29 sufficient information to satisfy an external audit.

30 SEC. 2. Section 17407.5 of the Education Code is amended to
31 read:

32 17407.5. (a) The governing board of a school district shall not
33 enter into an agreement pursuant to Section 17406 or 17407 with
34 any entity unless the entity provides to the governing board of the
35 school district an enforceable commitment that the entity and its
36 subcontractors at every tier will use a skilled and trained workforce
37 to perform all work on the project or contract that falls within an
38 apprenticeable occupation in the building and construction trades,
39 in accordance with Chapter 2.9 (commencing with Section 2600)
40 of Part 1 of Division 2 of the Public Contract Code.

(b) Subdivision (a) shall not apply if ~~either~~ *any of the following requirements are met:*

(1) The governing board of the school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract *to use a skilled and trained workforce* and the entity agrees to be bound by that project labor agreement.

(2) *The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the school district prior to January 1, 2017.*

~~(2)~~

(3) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or ~~contract~~ *contract to use a skilled and trained workforce.*

(c) For purposes of this section, “project labor agreement” has the same meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

SEC. 3. Section 25536.7 of the Health and Safety Code is amended to read:

25536.7. (a) (1) An owner or operator of a stationary source that is engaged in activities described in Code 324110 or 325110 of the North American Industry Classification System (NAICS), as that code read on January 1, 2014, and with one or more covered processes that is required to prepare and submit an RMP pursuant to this article, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2) The Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations may approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities. That safety training may be provided by an apprenticeship program approved by the chief or by instruction provided by the Chancellor of the California Community Colleges. The chief shall approve a curriculum in accordance with this paragraph by January 1, 2016,

1 and shall periodically revise the curriculum to reflect current best
2 practices. Upon receipt of certification from the apprenticeship
3 program or community college, the chief shall issue a certificate
4 to a worker who completes the approved curriculum.

5 (3) For purposes of paragraph (2) of subdivision (b) of Section
6 3075 of the Labor Code, a stationary source covered by this section
7 shall be considered in determining whether existing apprenticeship
8 programs do not have the capacity, or have neglected or refused,
9 to dispatch sufficient apprentices to qualified employers who are
10 willing to abide by the applicable apprenticeship standards.

11 (4) This section shall not apply to contracts awarded before
12 January 1, 2014, unless the contract is extended or renewed after
13 that date.

14 (5) (A) This section shall not apply to the employees of the
15 owner or operator of the stationary source or prevent the owner or
16 operator of the stationary source from using its own employees to
17 perform any work that has not been assigned to contractors while
18 the employees of the contractor are present and working.

19 (B) An apprenticeship program approved by the chief may
20 enroll, with advanced standing, applicants with relevant prior work
21 experience at a stationary source that is subject to this section, in
22 accordance with the approved apprenticeship standards of the
23 program.

24 (6) The criteria of subparagraph (A) of paragraph ~~(9)~~ (10) of
25 subdivision (b), subparagraph (C) of paragraph ~~(9)~~ (10) of
26 subdivision (b), and subparagraph (B) of paragraph ~~(10)~~ (11) of
27 subdivision (b) shall not apply to either of the following:

28 (A) To the extent that the contractor has requested qualified
29 workers from the local hiring halls that dispatch workers in the
30 apprenticeable occupation and, due to workforce shortages, the
31 contractor is unable to obtain sufficient qualified workers within
32 48 hours of the request, Saturdays, Sundays, and holidays excepted.
33 This section shall not prevent contractors from obtaining workers
34 from any source.

35 (B) To the extent that compliance is impracticable because an
36 emergency requires immediate action to prevent harm to public
37 health or safety or to the environment, but the criteria shall apply
38 as soon as the emergency is over or it becomes practicable for
39 contractors to obtain a qualified workforce.

(7) The requirement specified in paragraph (1) for a skilled and trained workforce, as defined in paragraph ~~(10)~~ (11) of subdivision (b), shall apply to each individual contractor's and subcontractor's onsite workforce.

(8) This section does not make the construction, alteration, demolition, installation, repair, or maintenance work at a stationary source that is subject to this section a public work, within the meaning of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code. *This section does not preclude the use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.*

(b) As used in this section:

(1) "Apprenticeable occupation" means an occupation for which the chief has approved an apprenticeship program pursuant to Section 3075 of the Labor Code.

(2) "Approved advanced safety training for workers at high hazard facilities" means a curriculum approved by the chief pursuant to paragraph (2) of subdivision (a).

(3) "Building and construction trades" has the same meaning as in Section 3075.5 of the Labor Code.

(4) "Chief" means the Chief of the Division of the Apprenticeship Standards of the Department of Industrial Relations.

(5) "Construction," "alteration," "demolition," "installation," "repair," and "maintenance" have the same meanings as in Sections 1720 and 1771 of the Labor Code.

(6) "Graduate of an apprenticeship program" means either of the following:

(A) *An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code.*

(B) *An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.*

~~(6)~~

(7) "Onsite work" shall not include catalyst handling and loading, chemical cleaning, or inspection and testing that was not within the scope of a prevailing wage determination issued by the Director of Industrial Relations as of January 1, 2013.

1 ~~(7)~~

2 (8) “Prevailing hourly wage rate” means the general prevailing
3 rate of per diem wages, as determined by the Director of Industrial
4 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code,
5 but does not include shift differentials, travel and subsistence, or
6 holiday pay. Notwithstanding subdivision (c) of Section 1773.1
7 of the Labor Code, the requirement that employer payments not
8 reduce the obligation to pay the hourly straight time or overtime
9 wages found to be prevailing shall not apply if otherwise provided
10 in a bona fide collective bargaining agreement covering the worker.

11 ~~(8)~~

12 (9) “Registered apprentice” means an apprentice registered in
13 an apprenticeship program approved by the chief pursuant to
14 Section 3075 of the Labor Code who is performing work covered
15 by the standards of that apprenticeship program and receiving the
16 supervision required by the standards of that apprenticeship
17 program.

18 ~~(9)~~

19 (10) “Skilled journeyperson” means a worker who meets all of
20 the following criteria:

21 (A) The worker either graduated from an apprenticeship program
22 for the applicable occupation that was approved by the chief, or
23 has at least as many hours of on-the-job experience in the
24 applicable occupation that would be required to graduate from an
25 apprenticeship program for the applicable occupation that is
26 approved by the chief.

27 (B) The worker is being paid at least a rate equivalent to the
28 prevailing hourly wage rate for a journeyperson in the applicable
29 occupation and geographic area.

30 (C) The worker has completed within the prior two calendar
31 years at least 20 hours of approved advanced safety training for
32 workers at high hazard facilities. This requirement applies only to
33 work performed on or after January 1, 2018.

34 ~~(10)~~

35 (11) “Skilled and trained workforce” means a workforce that
36 meets both of the following criteria:

37 (A) All the workers are either registered apprentices or skilled
38 journeypersons.

39 (B) (i) As of January 1, 2014, at least 30 percent of the skilled
40 journeypersons are graduates of an apprenticeship program for the

~~applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor. occupation.~~

(ii) As of January 1, 2015, at least 45 percent of the skilled journeypersons are graduates of an apprenticeship program for the ~~applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor. occupation.~~

(iii) As of January 1, 2016, at least 60 percent of the skilled journeypersons are graduates of an apprenticeship program for the ~~applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor. occupation.~~

~~SEC. 3.~~

SEC. 4. Chapter 2.9 (commencing with Section 2600) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 2.9. SKILLED AND TRAINED WORKFORCE
REQUIREMENTS

2600. (a) This chapter applies when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.

(b) A public entity may require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation.

2601. For purposes of this chapter:

(a) "Apprenticeable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

(b) “Chief” means the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) “Graduate of an apprenticeship program” means either of the following:

(1) An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code.

(2) An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(e)

(d) “Skilled and trained workforce” means a workforce that meets all of the following conditions:

(1) All the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief.

(2) (A) For work performed on or after January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable ~~occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.~~ occupation.

(B) For work performed on or after January 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable ~~occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.~~ occupation.

(C) For work performed on or after January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its

1 subcontractors at every tier are graduates of an apprenticeship
2 program for the applicable ~~occupation that was either approved~~
3 ~~by the chief pursuant to Section 3075 of the Labor Code or located~~
4 ~~outside California and approved for federal purposes pursuant to~~
5 ~~the apprenticeship regulations adopted by the federal Secretary of~~
6 ~~Labor.~~ *occupation.*

7 (D) For work performed on or after January 1, 2020, at least 60
8 percent of the skilled journeypersons employed to perform work
9 on the contract or project by every contractor and each of its
10 subcontractors at every tier are graduates of an apprenticeship
11 program for the applicable ~~occupation that was either approved~~
12 ~~by the chief pursuant to Section 3075 of the Labor Code or located~~
13 ~~outside California and approved for federal purposes pursuant to~~
14 ~~the apprenticeship regulations adopted by the federal Secretary of~~
15 ~~Labor.~~ *occupation.*

16 (3) For an apprenticeable occupation in which no apprenticeship
17 program had been approved by the chief before January 1, 1995,
18 up to one-half of the graduation percentage requirements of
19 paragraph (2) may be satisfied by skilled journeypersons who
20 commenced working in the apprenticeable occupation before the
21 chief's approval of an apprenticeship program for that occupation
22 in the county in which the project is located.

23 (4) The apprenticeship graduation percentage requirements of
24 paragraph (2) are satisfied if, in a particular calendar month, either
25 of the following is true:

26 (A) At least the required percentage of the skilled
27 journeypersons employed by the contractor or subcontractor to
28 perform work on the contract or project meet the graduation
29 percentage requirement.

30 (B) For the hours of work performed by skilled journeypersons
31 employed by the contractor or subcontractor on the contract or
32 project, the percentage of hours performed by skilled
33 journeypersons who met the graduation requirement is at least
34 equal to the required graduation percentage.

35 (5) The contractor or subcontractor need not meet the
36 apprenticeship graduation requirements of paragraph (2) if, during
37 the calendar month, the contractor or subcontractor employs skilled
38 journeypersons to perform fewer than 10 hours of work on the
39 contract or project.

1 (6) *A subcontractor need not meet the apprenticeship graduation*
2 *requirements of paragraph (2) if both of the following requirements*
3 *are met:*

4 (A) *The subcontractor was not a listed subcontractor under*
5 *Section 4104 or a substitute for a listed subcontractor.*

6 (B) *The subcontract does not exceed one-half of 1 percent of*
7 *the price of the prime contract.*

8 ~~(d)~~

9 (e) “Skilled journeyperson” means a worker who either:

10 (1) Graduated from an apprenticeship program for the applicable
11 occupation that was approved by the chief or located outside
12 California and approved for federal purposes pursuant to the
13 apprenticeship regulations adopted by the federal Secretary of
14 Labor.

15 (2) Has at least as many hours of on-the-job experience in the
16 applicable occupation as would be required to graduate from an
17 apprenticeship program for the applicable occupation that is
18 approved by the chief.

19 2602. (a) When a contractor, bidder, or other entity is required
20 to provide an enforceable commitment that a skilled and trained
21 workforce will be used to complete a contract or project, the
22 commitment shall be made in an enforceable agreement with the
23 public entity or other awarding body that provides both of the
24 following:

25 (1) The contractor, bidder, or other entity, and its contractors
26 and subcontractors at every tier, will comply with this chapter.

27 (2) The contractor, bidder, or other entity will provide to the
28 public entity or other awarding body, on a monthly basis while the
29 project or contract is being performed, a report demonstrating
30 compliance with this chapter.

31 (b) If the contractor, bidder, or other entity fails to provide the
32 monthly report required by this section, or provides a report that
33 is incomplete, the public agency or other awarding body shall
34 withhold further payments until a complete report is provided.

35 (c) If a monthly report does not demonstrate compliance with
36 this chapter, the public agency or other awarding body shall
37 withhold further payments until the contractor, bidder, or other
38 entity provides a plan to achieve substantial compliance with this
39 chapter, with respect to the relevant apprenticeable occupation,
40 prior to completion of the contract or project.

(d) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection.

SEC. 5. Section 10191 of the Public Contract Code is amended to read:

10191. The procurement process for the design-build projects shall progress as follows:

(a) (1) The director shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the department's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(2) The documents shall not include a design-build-operate contract for any project. The documents, however, may include operations during a training or transition period but shall not include long-term operations for any project.

(b) The director shall prepare and issue a request for qualifications in order to prequalify or short-list the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but need not be limited to, the following elements:

(1) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the department to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the director to inform interested parties of the contracting opportunity.

(2) Significant factors that the department reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other nonprice-related factors.

(3) A standard template request for statements of qualifications prepared by the department. In preparing the standard template, the department may consult with the construction industry, the

1 building trades and surety industry, and other agencies interested
2 in using the authorization provided by this article. The template
3 shall require the following information:

4 (A) If the design-build entity is a privately held corporation,
5 limited liability company, partnership, or joint venture, a listing
6 of all of the shareholders, partners, or members known at the time
7 of statement of qualification submission who will perform work
8 on the project.

9 (B) Evidence that the members of the design-build team have
10 completed, or demonstrated the experience, competency, capability,
11 and capacity to complete projects of similar size, scope, or
12 complexity, and that proposed key personnel have sufficient
13 experience and training to competently manage and complete the
14 design and construction of the project, and a financial statement
15 that ensures that the design-build entity has the capacity to
16 complete the project.

17 (C) The licenses, registration, and credentials required to design
18 and construct the project, including, but not limited to, information
19 on the revocation or suspension of any license, credential, or
20 registration.

21 (D) Evidence that establishes that the design-build entity has
22 the capacity to obtain all required payment and performance
23 bonding, liability insurance, and errors and omissions insurance.

24 (E) Information concerning workers' compensation experience
25 history and a worker safety program.

26 (F) If the proposed design-build entity is a corporation, limited
27 liability company, partnership, joint venture, or other legal entity,
28 a copy of the organizational documents or agreement committing
29 to form the organization.

30 (G) An acceptable safety record. A proposer's safety record
31 shall be deemed acceptable if its experience modification rate for
32 the most recent three-year period is an average of 1.00 or less, and
33 its average total recordable injury or illness rate and average lost
34 work rate for the most recent three-year period does not exceed
35 the applicable statistical standards for its business category or if
36 the proposer is a party to an alternative dispute resolution system
37 as provided for in Section 3201.5 of the Labor Code.

38 (4) (A) The information required under this subdivision shall
39 be certified under penalty of perjury by the design-build entity and
40 its general partners or joint venture members.

1 (B) Information required under this subdivision that is not
2 otherwise a public record under the California Public Records Act
3 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
4 Title 1 of the Government Code) shall not be open to public
5 inspection.

6 (c) (I) A design-build entity shall not be prequalified or
7 shortlisted unless the entity provides an enforceable commitment
8 to the director that the entity and its subcontractors at every tier
9 will use a skilled and trained workforce to perform all work on the
10 project or contract that falls within an apprenticeable occupation
11 in the building and construction trades, *trades, in accordance with*
12 *Chapter 2.9 (commencing with Section 2600) of Part 1.*

13 ~~(1) For purposes of this subdivision:~~

14 ~~(A) “Apprenticeable occupation” means an occupation for which~~
15 ~~the chief had approved an apprenticeship program pursuant to~~
16 ~~Section 3075 of the Labor Code prior to January 1, 2014.~~

17 ~~(B) “Skilled and trained workforce” means a workforce that~~
18 ~~meets all of the following conditions:~~

19 ~~(i) All the workers are either skilled journeypersons or~~
20 ~~apprentices registered in an apprenticeship program approved by~~
21 ~~the Chief of the Division of Apprenticeship Standards.~~

22 ~~(ii) (I) As of January 1, 2016, at least 20 percent of the skilled~~
23 ~~journeypersons employed to perform work on the contract or~~
24 ~~project by the entity and each of its subcontractors at every tier~~
25 ~~are graduates of an apprenticeship program for the applicable~~
26 ~~occupation that was either approved by the Chief of the Division~~
27 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
28 ~~Code or located outside California and approved for federal~~
29 ~~purposes pursuant to the apprenticeship regulations adopted by~~
30 ~~the federal Secretary of Labor.~~

31 ~~(II) As of January 1, 2017, at least 30 percent of the skilled~~
32 ~~journeypersons employed to perform work on the contract or~~
33 ~~project by the entity and each of its subcontractors at every tier~~
34 ~~are graduates of an apprenticeship program for the applicable~~
35 ~~occupation that was either approved by the Chief of the Division~~
36 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
37 ~~Code or located outside California and approved for federal~~
38 ~~purposes pursuant to the apprenticeship regulations adopted by~~
39 ~~the federal Secretary of Labor.~~

1 ~~(III) As of January 1, 2018, at least 40 percent of the skilled~~
2 ~~journeypersons employed to perform work on the contract or~~
3 ~~project by the entity and each of its subcontractors at every tier~~
4 ~~are graduates of an apprenticeship program for the applicable~~
5 ~~occupation that was either approved by the Chief of the Division~~
6 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
7 ~~Code or located outside California and approved for federal~~
8 ~~purposes pursuant to the apprenticeship regulations adopted by~~
9 ~~the federal Secretary of Labor.~~

10 ~~(IV) As of January 1, 2019, at least 50 percent of the skilled~~
11 ~~journeypersons employed to perform work on the contract or~~
12 ~~project by the entity and each of its subcontractors at every tier~~
13 ~~are graduates of an apprenticeship program for the applicable~~
14 ~~occupation that was either approved by the Chief of the Division~~
15 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
16 ~~Code or located outside California and approved for federal~~
17 ~~purposes pursuant to the apprenticeship regulations adopted by~~
18 ~~the federal Secretary of Labor.~~

19 ~~(V) As of January 1, 2020, at least 60 percent of the skilled~~
20 ~~journeypersons employed to perform work on the contract or~~
21 ~~project by the entity and each of its subcontractors at every tier~~
22 ~~are graduates of an apprenticeship program for the applicable~~
23 ~~occupation that was either approved by the Chief of the Division~~
24 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
25 ~~Code or located outside California and approved for federal~~
26 ~~purposes pursuant to the apprenticeship regulations adopted by~~
27 ~~the federal Secretary of Labor.~~

28 ~~(iii) For an apprenticeable occupation in which no apprenticeship~~
29 ~~program had been approved by the chief prior to January 1, 1995,~~
30 ~~up to one-half of the graduation percentage requirements of clause~~
31 ~~(ii) may be satisfied by skilled journeypersons who commenced~~
32 ~~working in the apprenticeable occupation prior to the chief's~~
33 ~~approval of an apprenticeship program for that occupation in the~~
34 ~~county in which the project is located.~~

35 ~~(C) "Skilled journeyperson" means a worker who either:~~

36 ~~(i) Graduated from an apprenticeship program for the applicable~~
37 ~~occupation that was approved by the chief or located outside~~
38 ~~California and approved for federal purposes pursuant to the~~
39 ~~apprenticeship regulations adopted by the federal Secretary of~~
40 ~~Labor.~~

~~(ii) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.~~

~~(2) An entity's commitment that a skilled and trained workforce will be used to perform the project or contract may be established by any of the following:~~

~~(A) The entity's agreement with the director that the entity and its subcontractors at every tier will comply with the requirements of this subdivision and that the entity will provide the director with evidence, on a monthly basis while the project or contract is being performed, that the entity and its subcontractors are complying with the requirements of this subdivision.~~

~~(B) If the director has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and that includes the requirements of this subdivision, the entity's agreement that it will become a party to that project labor agreement.~~

~~(C) Evidence that the entity has entered into a project labor agreement that includes the requirements of this subdivision and that will bind the entity and all its subcontractors at every tier performing the project or contract.~~

~~(2) This subdivision shall not apply if any of the following requirements are met:~~

~~(A) The department has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.~~

~~(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the department prior to January 1, 2017.~~

~~(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.~~

~~(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.~~

~~(d) Based on the documents prepared as described in subdivision (a), the director shall prepare a request for proposals that invites~~

1 prequalified or short-listed entities to submit competitive sealed
2 proposals in the manner prescribed by the department. The request
3 for proposals shall include, but need not be limited to, the following
4 elements:

5 (1) Identification of the basic scope and needs of the project or
6 contract, the estimated cost of the project, the methodology that
7 will be used by the department to evaluate proposals, whether the
8 contract will be awarded on the basis of low bid or best value, and
9 any other information deemed necessary by the department to
10 inform interested parties of the contracting opportunity.

11 (2) Significant factors that the department reasonably expects
12 to consider in evaluating proposals, including, but not limited to,
13 cost or price and all nonprice-related factors.

14 (3) The relative importance or the weight assigned to each of
15 the factors identified in the request for proposals.

16 (4) Where a best value selection method is used, the department
17 may reserve the right to request proposal revisions and hold
18 discussions and negotiations with responsive proposers, in which
19 case the department shall so specify in the request for proposals
20 and shall publish separately or incorporate into the request for
21 proposals applicable procedures to be observed by the department
22 to ensure that any discussions or negotiations are conducted in
23 good faith.

24 (e) For those projects utilizing low bid as the final selection
25 method, the competitive bidding process shall result in lump-sum
26 bids by the prequalified or short-listed design-build entities, and
27 awards shall be made to the design-build entity that is the lowest
28 responsible bidder.

29 (f) For those projects utilizing best value as a selection method,
30 the design-build competition shall progress as follows:

31 (1) Competitive proposals shall be evaluated by using only the
32 criteria and selection procedures specifically identified in the
33 request for proposals. The following minimum factors, however,
34 shall be weighted as deemed appropriate by the department:

35 (A) Price, unless a stipulated sum is specified.

36 (B) Technical design and construction expertise.

37 (C) Life-cycle costs over 15 or more years.

38 (2) Pursuant to subdivision (d), the department may hold
39 discussions or negotiations with responsive proposers using the
40 process articulated in the department's request for proposals.

(3) When the evaluation is complete, the responsive proposers shall be ranked based on a determination of value provided, provided that no more than three proposers are required to be ranked.

(4) The award of the contract shall be made to the responsible design-build entity whose proposal is determined by the director to have offered the best value to the public.

(5) Notwithstanding any other provision of this code, upon issuance of a contract award, the director shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award.

(6) The statement regarding the director's contract award, described in paragraph (5), and the contract file shall provide sufficient information to satisfy an external audit.

~~SEC. 4.~~

SEC. 6. Section 20119.1 of the Public Contract Code is amended to read:

20119.1. As used in this article:

(a) "Best value" means a procurement process whereby the selected bidder may be selected on the basis of objective criteria for evaluating the qualifications of bidders with the resulting selection representing the best combination of price and qualifications.

(b) "Best value contract" means a competitively bid contract entered into pursuant to this article.

(c) "Best value contractor" means a properly licensed person, firm, or corporation that submits a bid for and is awarded a best value contract.

(d) "Best value score" means the resulting score when the school district divides the bidder's price by the bidder's qualification score.

(e) "Demonstrated management competency" means the experience, competency, capability, and capacity of the proposed management staffing to complete projects of similar size, scope, or complexity.

(f) "Financial condition" means the financial resources needed to perform the contract. The criteria used to evaluate a bidder's financial condition shall include, at a minimum, capacity to obtain all required payment bonds and required insurance.

(g) “Governing board” or “governing board of the school district” means the governing board of the Los Angeles Unified School District.

(h) “Labor compliance” means the ability to comply with, and past conformance with, contract and statutory requirements for the payment of wages and qualifications of the workforce. The criteria used to evaluate a bidder’s labor compliance shall include, at a minimum, the bidder’s ability to comply with the apprenticeship requirements of the California Apprenticeship Council and the Department of Industrial Relations, its past conformance with such requirements, and its past conformance with requirements to pay prevailing wages on public works projects.

(i) “Project” has the same meaning as “public project” as defined in subdivision (c) of Section 22002.

(j) “Qualifications” means financial condition, relevant experience, demonstrated management competency, labor compliance, the safety record of the bidder, and, to the extent relevant, the preceding qualifications as they pertain to all subcontractors proposed to be used by the bidder for designated portions of the work.

(k) “Relevant experience” means the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity.

(l) “Safety record” shall be deemed “acceptable” if a contractor’s experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period do not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(m) “School district” means the Los Angeles Unified School District.

~~SEC. 5.~~

SEC. 7. Section 20119.3 of the Public Contract Code is amended to read:

20119.3. The governing board of the school district shall proceed in accordance with the following when awarding best value contracts under this article:

1 (a) The school district shall prepare a solicitation for bids and
2 give notice pursuant to Section 20112.

3 (b) (1) The school district shall establish a procedure to
4 prequalify bidders as required by this code. Information submitted
5 by the bidder as part of the evaluation process shall not be open
6 to public inspection to the extent that information is exempt from
7 disclosure under the California Public Records Act (Chapter 3.5
8 (commencing with Section 6250) of Division 7 of Title 1 of the
9 Government Code).

10 (2) A best value entity shall not be prequalified or shortlisted
11 unless the entity provides an enforceable commitment to the
12 governing board that the entity and its subcontractors at every tier
13 will use a skilled and trained workforce to perform all work on the
14 project or contract that falls within an apprenticeable occupation
15 in the building and construction trades, in accordance with Chapter
16 2.9 (commencing with Section 2600) of Part 1.

17 (3) Paragraph (2) shall not apply if ~~either:~~ *any of the follow*
18 *requirements are met:*

19 (A) The school district has entered into a project labor agreement
20 that will bind all contractors and subcontractors performing work
21 on the project or contract *to use a skilled and trained workforce,*
22 and the entity agrees to be bound by that project labor agreement.

23 (B) *The project or contract is being performed under the*
24 *extension or renewal of a project labor agreement that was entered*
25 *into by the school district prior to January 1, 2017.*

26 ~~(B)~~

27 (C) The entity has entered into a project labor agreement that
28 will bind the entity and all its subcontractors at every tier
29 performing the project or ~~contract:~~ *contract to use a skilled and*
30 *trained workforce.*

31 (4) For purposes of this subdivision, “project labor agreement”
32 has the same meaning as in paragraph (1) of subdivision (b) of
33 Section 2500.

34 (c) Each solicitation for bids shall do all of the following:

35 (1) Invite prequalified bidders to submit sealed bids in the
36 manner prescribed by this article.

37 (2) Include a section identifying and describing the following:

38 (A) Criteria that the school district will consider in evaluating
39 the qualifications of the bidders.

1 (B) The methodology and rating or weighting system that will
2 be used by the school district in evaluating bids.

3 (C) The relative importance or weight assigned to the criteria
4 for evaluating the qualifications of bidders identified in the request
5 for bids.

6 (d) Final evaluation of the bidders shall be done in a manner
7 that prevents the identity of the bidders and the cost or price
8 information from being revealed in evaluating the qualifications
9 of the bidders prior to completion of qualification scoring.

10 ~~SEC. 6.~~

11 ~~SEC. 8.~~ Section 20155.2 of the Public Contract Code is
12 repealed.

13 ~~SEC. 7.~~

14 ~~SEC. 9.~~ Section 20155.4 of the Public Contract Code is
15 amended to read:

16 20155.4. (a) A best value contractor shall not be prequalified
17 or shortlisted unless the contractor provides an enforceable
18 commitment to the county that the contractor and its subcontractors
19 at every tier will use a skilled and trained workforce to perform
20 all work on the project or contract that falls within an
21 apprenticeable occupation in the building and construction trades,
22 in accordance with Chapter 2.9 (commencing with Section 2600)
23 of Part 1.

24 (b) This section shall not apply if ~~either:~~ *any of the following*
25 *requirements are met:*

26 (1) The county has entered into a project labor agreement that
27 will bind all contractors and subcontractors performing work on
28 the project or contract *to use a skilled and trained workforce*, and
29 the contractor agrees to be bound by that project labor agreement.

30 (2) *The project or contract is being performed under the*
31 *extension or renewal of a project labor agreement that was entered*
32 *into by the county prior to January 1, 2017.*

33 ~~(2)~~

34 (3) The contractor has entered into a project labor agreement
35 that will bind the contractor and all its subcontractors at every tier
36 performing the project or ~~contract.~~ *contract to use a skilled and*
37 *trained workforce.*

38 (c) For purposes of this section, “project labor agreement” has
39 the same meaning as in paragraph (1) of subdivision (b) of Section
40 2500.

1 *SEC. 10. Section 22164 of the Public Contract Code is amended*
2 *to read:*

3 22164. The procurement process for the design-build projects
4 shall progress as follows:

5 (a) (1) The local agency shall prepare a set of documents setting
6 forth the scope and estimated price of the project. The documents
7 may include, but need not be limited to, the size, type, and desired
8 design character of the project, performance specifications covering
9 the quality of materials, equipment, workmanship, preliminary
10 plans or building layouts, or any other information deemed
11 necessary to describe adequately the local agency's needs. The
12 performance specifications and any plans shall be prepared by a
13 design professional who is duly licensed and registered in
14 California.

15 (2) The documents shall not include a design-build-operate
16 contract for any project. The documents, however, may include
17 operations during a training or transition period but shall not
18 include long-term operations for any project.

19 (b) The local agency shall prepare and issue a request for
20 qualifications in order to prequalify or short-list the design-build
21 entities whose proposals shall be evaluated for final selection. The
22 request for qualifications shall include, but need not be limited to,
23 the following elements:

24 (1) Identification of the basic scope and needs of the project or
25 contract, the expected cost range, the methodology that will be
26 used by the local agency to evaluate proposals, the procedure for
27 final selection of the design-build entity, and any other information
28 deemed necessary by the local agency to inform interested parties
29 of the contracting opportunity.

30 (2) Significant factors that the local agency reasonably expects
31 to consider in evaluating qualifications, including technical design
32 and construction expertise, acceptable safety record, and all other
33 nonprice-related factors.

34 (3) A standard template request for statements of qualifications
35 prepared by the local agency. In preparing the standard template,
36 the local agency may consult with the construction industry, the
37 building trades and surety industry, and other local agencies
38 interested in using the authorization provided by this article. The
39 template shall require the following information:

1 (A) If the design-build entity is a privately held corporation,
2 limited liability company, partnership, or joint venture, a listing
3 of all of the shareholders, partners, or members known at the time
4 of statement of qualification submission who will perform work
5 on the project.

6 (B) Evidence that the members of the design-build team have
7 completed, or demonstrated the experience, competency, capability,
8 and capacity to complete projects of similar size, scope, or
9 complexity, and that proposed key personnel have sufficient
10 experience and training to competently manage and complete the
11 design and construction of the project, and a financial statement
12 that ensures that the design-build entity has the capacity to
13 complete the project.

14 (C) The licenses, registration, and credentials required to design
15 and construct the project, including, but not limited to, information
16 on the revocation or suspension of any license, credential, or
17 registration.

18 (D) Evidence that establishes that the design-build entity has
19 the capacity to obtain all required payment and performance
20 bonding, liability insurance, and errors and omissions insurance.

21 (E) Information concerning workers' compensation experience
22 history and a worker safety program.

23 (F) If the proposed design-build entity is a corporation, limited
24 liability company, partnership, joint venture, or other legal entity,
25 a copy of the organizational documents or agreement committing
26 to form the organization.

27 (G) An acceptable safety record. A proposer's safety record
28 shall be deemed acceptable if its experience modification rate for
29 the most recent three-year period is an average of 1.00 or less, and
30 its average total recordable injury or illness rate and average lost
31 work rate for the most recent three-year period does not exceed
32 the applicable statistical standards for its business category or if
33 the proposer is a party to an alternative dispute resolution system
34 as provided for in Section 3201.5 of the Labor Code.

35 (4) (A) The information required under this subdivision shall
36 be certified under penalty of perjury by the design-build entity and
37 its general partners or joint venture members.

38 (B) Information required under this subdivision that is not
39 otherwise a public record under the California Public Records Act
40 (Chapter 3.5 (commencing with Section 6250) of Division 7 of

1 Title 1 of the Government Code) shall not be open to public
2 inspection.

3 (c) (I) A design-build entity shall not be prequalified or
4 shortlisted unless the entity provides an enforceable commitment
5 to the local agency that the entity and its subcontractors at every
6 tier will use a skilled and trained workforce to perform all work
7 on the project or contract that falls within an apprenticeable
8 occupation in the building and construction ~~trades; trades, in~~
9 ~~accordance with Chapter 2.9 (commencing with Section 2600) of~~
10 ~~Part 1.~~

11 (1) For purposes of this subdivision:

12 (A) ~~“Apprenticeable occupation” means an occupation for which~~
13 ~~the chief had approved an apprenticeship program pursuant to~~
14 ~~Section 3075 of the Labor Code prior to January 1, 2014.~~

15 (B) ~~“Skilled and trained workforce” means a workforce that~~
16 ~~meets all of the following conditions:~~

17 (i) ~~All the workers are either skilled journeypersons or~~
18 ~~apprentices registered in an apprenticeship program approved by~~
19 ~~the Chief of the Division of Apprenticeship Standards.~~

20 (ii) (I) ~~As of January 1, 2016, at least 20 percent of the skilled~~
21 ~~journeypersons employed to perform work on the contract or~~
22 ~~project by the entity and each of its subcontractors at every tier~~
23 ~~are graduates of an apprenticeship program for the applicable~~
24 ~~occupation that was either approved by the Chief of the Division~~
25 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
26 ~~Code or located outside California and approved for federal~~
27 ~~purposes pursuant to the apprenticeship regulations adopted by~~
28 ~~the federal Secretary of Labor.~~

29 (II) ~~As of January 1, 2017, at least 30 percent of the skilled~~
30 ~~journeypersons employed to perform work on the contract or~~
31 ~~project by the entity and each of its subcontractors at every tier~~
32 ~~are graduates of an apprenticeship program for the applicable~~
33 ~~occupation that was either approved by the Chief of the Division~~
34 ~~of Apprenticeship Standards pursuant to Section 3075 of the Labor~~
35 ~~Code or located outside California and approved for federal~~
36 ~~purposes pursuant to the apprenticeship regulations adopted by~~
37 ~~the federal Secretary of Labor.~~

38 (III) ~~As of January 1, 2018, at least 40 percent of the skilled~~
39 ~~journeypersons employed to perform work on the contract or~~
40 ~~project by the entity and each of its subcontractors at every tier~~

1 are graduates of an apprenticeship program for the applicable
2 occupation that was either approved by the Chief of the Division
3 of Apprenticeship Standards pursuant to Section 3075 of the Labor
4 Code or located outside California and approved for federal
5 purposes pursuant to the apprenticeship regulations adopted by
6 the federal Secretary of Labor.

7 (IV) As of January 1, 2019, at least 50 percent of the skilled
8 journeypersons employed to perform work on the contract or
9 project by the entity and each of its subcontractors at every tier
10 are graduates of an apprenticeship program for the applicable
11 occupation that was either approved by the Chief of the Division
12 of Apprenticeship Standards pursuant to Section 3075 of the Labor
13 Code or located outside California and approved for federal
14 purposes pursuant to the apprenticeship regulations adopted by
15 the federal Secretary of Labor.

16 (V) As of January 1, 2020, at least 60 percent of the skilled
17 journeypersons employed to perform work on the contract or
18 project by the entity and each of its subcontractors at every tier
19 are graduates of an apprenticeship program for the applicable
20 occupation that was either approved by the Chief of the Division
21 of Apprenticeship Standards pursuant to Section 3075 of the Labor
22 Code or located outside California and approved for federal
23 purposes pursuant to the apprenticeship regulations adopted by
24 the federal Secretary of Labor.

25 (iii) For an apprenticeable occupation in which no apprenticeship
26 program had been approved by the chief prior to January 1, 1995,
27 up to one-half of the graduation percentage requirements of clause
28 (ii) may be satisfied by skilled journeypersons who commenced
29 working in the apprenticeable occupation prior to the chief's
30 approval of an apprenticeship program for that occupation in the
31 county in which the project is located.

32 (C) "Skilled journeyperson" means a worker who either:

33 (i) Graduated from an apprenticeship program for the applicable
34 occupation that was approved by the chief or located outside
35 California and approved for federal purposes pursuant to the
36 apprenticeship regulations adopted by the federal Secretary of
37 Labor.

38 (ii) Has at least as many hours of on-the-job experience in the
39 applicable occupation as would be required to graduate from an

1 apprenticeship program for the applicable occupation that is
2 approved by the chief.

3 (2) ~~An entity's commitment that a skilled and trained workforce~~
4 ~~will be used to perform the project or contract may be established~~
5 ~~by any of the following:~~

6 (A) ~~The entity's agreement with the local agency that the entity~~
7 ~~and its subcontractors at every tier will comply with the~~
8 ~~requirements of this subdivision and that the entity will provide~~
9 ~~the local agency with evidence, on a monthly basis while the~~
10 ~~project or contract is being performed, that the entity and its~~
11 ~~subcontractors are complying with the requirements of this~~
12 ~~subdivision.~~

13 (B) ~~If the local agency has entered into a project labor agreement~~
14 ~~that will bind all contractors and subcontractors performing work~~
15 ~~on the project or contract and that includes the requirements of~~
16 ~~this subdivision, the entity's agreement that it will become a party~~
17 ~~to that project labor agreement.~~

18 (C) ~~Evidence that the entity has entered into a project labor~~
19 ~~agreement that includes the requirements of this subdivision and~~
20 ~~that will bind the entity and all its subcontractors at every tier~~
21 ~~performing the project or contract.~~

22 (2) *This subdivision shall not apply if any of the following*
23 *requirements are met:*

24 (A) *The local agency has entered into a project labor agreement*
25 *that will bind all contractors and subcontractors performing work*
26 *on the project or contract to use a skilled and trained workforce,*
27 *and the entity agrees to be bound by that project labor agreement.*

28 (B) *The project or contract is being performed under the*
29 *extension or renewal of a project labor agreement that was entered*
30 *into by the local agency prior to January 1, 2017.*

31 (C) *The entity has entered into a project labor agreement that*
32 *will bind the entity and all its subcontractors at every tier*
33 *performing the project or contract to use a skilled and trained*
34 *workforce.*

35 (3) *For purposes of this subdivision, "project labor agreement"*
36 *has the same meaning as in paragraph (1) of subdivision (b) of*
37 *Section 2500.*

38 (d) Based on the documents prepared as described in subdivision
39 (a), the local agency shall prepare a request for proposals that
40 invites prequalified or short-listed entities to submit competitive

1 sealed proposals in the manner prescribed by the local agency.
2 The request for proposals shall include, but need not be limited
3 to, the following elements:

4 (1) Identification of the basic scope and needs of the project or
5 contract, the estimated cost of the project, the methodology that
6 will be used by the local agency to evaluate proposals, whether
7 the contract will be awarded on the basis of low bid or best value,
8 and any other information deemed necessary by the local agency
9 to inform interested parties of the contracting opportunity.

10 (2) Significant factors that the local agency reasonably expects
11 to consider in evaluating proposals, including, but not limited to,
12 cost or price and all nonprice-related factors.

13 (3) The relative importance or the weight assigned to each of
14 the factors identified in the request for proposals.

15 (4) Where a best value selection method is used, the local agency
16 may reserve the right to request proposal revisions and hold
17 discussions and negotiations with responsive proposers, in which
18 case the local agency shall so specify in the request for proposals
19 and shall publish separately or incorporate into the request for
20 proposals applicable procedures to be observed by the local agency
21 to ensure that any discussions or negotiations are conducted in
22 good faith.

23 (e) For those projects utilizing low bid as the final selection
24 method, the competitive bidding process shall result in lump-sum
25 bids by the prequalified or short-listed design-build entities, and
26 awards shall be made to the design-build entity that is the lowest
27 responsible bidder.

28 (f) For those projects utilizing best value as a selection method,
29 the design-build competition shall progress as follows:

30 (1) Competitive proposals shall be evaluated by using only the
31 criteria and selection procedures specifically identified in the
32 request for proposals. The following minimum factors, however,
33 shall be weighted as deemed appropriate by the local agency:

34 (A) Price, unless a stipulated sum is specified.

35 (B) Technical design and construction expertise.

36 (C) Life-cycle costs over 15 or more years.

37 (2) Pursuant to subdivision (d), the local agency may hold
38 discussions or negotiations with responsive proposers using the
39 process articulated in the local agency's request for proposals.

1 (3) When the evaluation is complete, the responsive proposers
2 shall be ranked based on a determination of value provided,
3 provided that no more than three proposers are required to be
4 ranked.

5 (4) The award of the contract shall be made to the responsible
6 design-build entity whose proposal is determined by the local
7 agency to have offered the best value to the public.

8 (5) Notwithstanding any other provision of this code, upon
9 issuance of a contract award, the local agency shall publicly
10 announce its award, identifying the design-build entity to which
11 the award is made, along with a statement regarding the basis of
12 the award.

13 (6) The statement regarding the local agency's contract award,
14 described in paragraph (5), and the contract file shall provide
15 sufficient information to satisfy an external audit.

16 ~~SEC. 8.~~

17 *SEC. 11.* (a) The amendments made by this act shall not apply
18 to contracts that were advertised for bid or awarded before January
19 1, 2017.

20 (b) For contracts advertised for bid or awarded before January
21 1, 2017, for which an entity or contractor provided an enforceable
22 commitment to a school district or county regarding the use of a
23 skilled and trained workforce, pursuant to Section 17250.25 or
24 17407.5 of the Education Code or Section 20119.3 or 20155.4 of
25 the Public Contract Code, the school district or county may grant
26 a request by the entity or contractor that made the enforceable
27 commitment to comply instead with this act.

28 ~~SEC. 9.~~

29 *SEC. 12.* The Legislature finds and declares that Section 3 of
30 this act, which adds Chapter 2.9 (commencing with Section 2600)
31 to Part 1 of Division 2 of the Public Contract Code, furthers, within
32 the meaning of paragraph (7) of subdivision (b) of Section 3 of
33 Article I of the California Constitution, the purposes of that
34 constitutional section as it relates to the right of public access to
35 the meetings of local public bodies or the writings of local public
36 officials and local agencies. Pursuant to paragraph (7) of
37 subdivision (b) of Section 3 of Article I of the California
38 Constitution, the Legislature makes the following findings:

39 Because this act expressly subjects local public entities to the
40 California Public Records Act (*Chapter 3.5 (commencing with*

1 *Section 6250) of Division 7 of Title 1 of the Government Code)*
2 for monthly reports to the awarding body on compliance with
3 skilled and trained workforce requirements for public contracts,
4 the act furthers the purpose of Section 3 of Article I of the
5 California Constitution.

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